

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Kurita	Team: Team # 4	CCRB Case #: 201113364	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/12/2011 1:40 PM	Location of Incident: Q40 Bus-Linden Blvd and 142nd Street	Precinct: 113	18 Mo. SOL 4/12/2013	EO SOL 4/12/2013	
Date/Time CV Reported Thu, 10/13/2011 1:15 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/13/2011 1:15 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Matthew Tiernan	24019	946325	113 PCT
2. POM Jeffrey Smith	20119	945018	113 PCT
3. POM Matthew Lewis	25652	941054	113 PCT
4. SGT Aaron Klein	02374	935119	113 PCT
5. SGT Robert Bracero	00598	924973	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Perullo	28281	937282	113 PCT
2. POM Joseph Weldon	10941	942693	113 PCT
3. POM John Frank	11104	938500	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Aaron Klein	Abuse: Sgt. Aaron Klein supervised the stop § 87(2)(b)	
B.SGT Aaron Klein	Abuse: Sgt. Aaron Klein supervised the frisk of § 87(2)(b)	
C.SGT Aaron Klein	Force: Sgt. Aaron Klein used physical force against § 87(2)(b)	
D.POM Matthew Tiernan	Force: PO Matthew Tiernan used physical force against § 87(2)(b)	
E.POM Matthew Lewis	Force: PO Matthew Lewis used physical force against § 87(2)(b)	
F.POM Jeffrey Smith	Force: PO Jeffrey Smith used physical force against § 87(2)(b)	
G.POM Matthew Tiernan	Discourtesy: PO Matthew Tiernan spoke discourteously to § 87(2)(b)	
H.POM Matthew Lewis	Discourtesy: PO Matthew Lewis spoke discourteously to § 87(2)(b)	
I.POM Jeffrey Smith	Discourtesy: PO Jeffrey Smith spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
J.POM Matthew Tiernan	Off. Language: PO Matthew Tiernan made comments to § 87(2)(b) based upon her sex.	
K.POM Matthew Lewis	Off. Language: PO Matthew Lewis made comments to § 87(2)(b) based upon her sex.	
L.POM Jeffrey Smith	Off. Language: PO Jeffrey Smith made comments to § 87(2)(b) based upon her sex.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On October 13, 2011, § 87(2)(b) called the CCRB and filed a complaint against NYPD officers (encl. C1-2). § 87(2)(b) reported that on October 12, 2011, at approximately 1:40 p.m., she was stopped by officers in the vicinity of 142nd Street and Linden Boulevard in Queens. The following allegations resulted:

- **Allegation A- Abuse of Authority:** Sgt. Aaron Klein supervised the stop of § 87(2)(b) [REDACTED]
- **Allegation B- Abuse of Authority:** Sgt. Aaron Klein supervised the frisk of § 87(2)(b) [REDACTED] § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
- **Allegation C- Physical Force:** Sgt. Aaron Klein used physical force against § 87(2)(b) [REDACTED]
- **Allegation D- Physical Force:** PO Matthew Tiernan used physical force against § 87(2)(b) [REDACTED]
- **Allegation E- Physical Force:** PO Matthew Lewis used physical force against § 87(2)(b) [REDACTED]
- **Allegation F- Physical Force:** PO Jeffrey Smith used physical force against § 87(2)(b) [REDACTED] § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- **Allegation G- Discourtesy:** PO Mathew Tiernan spoke discourteously to § 87(2)(b) [REDACTED]
- **Allegation H- Discourtesy:** PO Matthew Lewis spoke discourteously to § 87(2)(b) [REDACTED]
- **Allegation I- Discourtesy:** PO Jeffrey Smith spoke discourteously to § 87(2)(b) [REDACTED] § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
- **Allegation J- Offensive Language:** PO Matthew Tiernan made comments to § 87(2)(b) [REDACTED] based on her sex.
- **Allegation K- Offensive Language:** PO Matthew Lewis made comments to Tyneria § 87(2)(b) [REDACTED] based on her sex.
- **Allegation L- Offensive Language:** PO Jeffrey Smith made comments to § 87(2)(b) [REDACTED] based on her sex. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(4-b) § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old black female who is 5'6" tall and 106 lbs. with black hair and brown eyes.

Statement to Medical Personnel:

§ 87(2)(b) complained of headache, nausea, dizziness, lower back pain, tooth extraction, and facial swelling. The injuries were sustained as a result of her arrest by NYPD officers.

§ 87(2)(b) did not lose consciousness (encl. C15-20).

CCRB Testimony:

§ 87(2)(b) was interviewed at the CCRB on November 3, 2011 (encl. C3-9). On October 12, 2011, at approximately 1:10 PM, § 87(2)(b) waited for the Linden Boulevard bound Q40 bus at the corner of Rockaway Boulevard and 142nd Street. § 87(2)(b) wore blue jeans, a royal blue hooded sweatshirt, and a black hat. § 87(2)(b)'s hood was up over her head and hat. § 87(2)(b) waited for the bus with an acquaintance named § 87(2)(b) whose last name she did not know. Across the street, § 87(2)(b) and § 87(2)(b) observed a tall, black male, with light skin complexion, wearing a royal blue hooded sweatshirt of a very similar color to § 87(2)(b) running down Rockaway Boulevard toward 140th Street. The unidentified black male removed his sweatshirt while he ran and threw the sweatshirt into an alleyway and continued to run. § 87(2)(b) and § 87(2)(b) watched the unidentified black male run down the street and § 87(2)(b) told § 87(2)(b) that he "must have done something." § 87(2)(b) decided to take the A train to Manhattan rather than the Q40 bus and left the bus stop.

The Q40 bus arrived at 142nd Street and Rockaway Boulevard and § 87(2)(b) boarded the bus, which was crowded with passengers. § 87(2)(b) went to the rear-most seat on the bus. After she sat down, § 87(2)(b) looked out of the bus window and observed an unmarked Kia sedan which may have been dark grey or bronze in color, drive by the bus in the opposite direction. As the Kia drove by, § 87(2)(b) observed an officer with his shield displayed inside the Kia using his radio and looking at her. § 87(2)(b) became nervous because she wore a sweatshirt of the same color as the individual she observed fleeing on Rockaway Boulevard. § 87(2)(b) spoke on the phone.

The bus stopped at 142nd Street and Linden Boulevard and the unmarked Kia stopped in front of the bus and prevented it from rejoining traffic. Four officers, identified by the investigation as PO Matthew Tiernan, PO Matthew Lewis, PO Jeffrey Smith, and Sgt. Aaron Klein, all of the 113th Precinct, boarded the bus through the front door. § 87(2)(b) described PO Tiernan as a white male, approximately 5'7" tall with a stocky build, bald or very short hair, wearing a grey t-shirt and blue jeans, approximately mid to late 30's in age. § 87(2)(b) described the additional officers as white males with stocky builds, all approximately 5'10" tall.

PO Tiernan, and two additional officers instructed § 87(2)(b) to get off the bus. § 87(2)(b) kept her phone to her ear and asked PO Tiernan what she did. PO Tiernan instructed § 87(2)(b) to get off the bus a second time. § 87(2)(b) told PO Tiernan, "I'm female. If you're looking for a guy, I'm not the guy. What's going on? I didn't do anything." PO Tiernan grabbed the front of § 87(2)(b)'s sweatshirt, told her "stop resisting" and pulled her off the seat where she was sitting and pushed her onto a row of three seats perpendicular to where she was sitting. Two more officers grabbed § 87(2)(b)'s arms and legs, and PO Tiernan and the officers dropped § 87(2)(b) to the ground face-first. § 87(2)(b)'s phone fell to the ground.

Throughout the interaction to this point, § 87(2)(b) was protesting verbally, and tightening the muscles of her body, but she was not fighting or actively resisting officers. PO Tiernan repeatedly instructed § 87(2)(b) to stop resisting and to “shut the fuck up.” § 87(2)(b) was placed in handcuffs. The officers instructed her to stop resisting. § 87(2)(b) attempted to turn her head and told the officers that her hands were behind her back. An officer grabbed the back of § 87(2)(b)'s neck, lifted her face from the floor of the bus, and slammed her face on the floor of the bus once. § 87(2)(b)'s front teeth bit into her lip which began bleeding and one of her front teeth was knocked loose. § 87(2)(b) yelled, “You all knocked my tooth out. You got the wrong fucking person. Let me the fuck go. I am a female I have nothing the fuck to do with this, man.”

§ 87(2)(b) was lifted off the ground and removed from the bus. Outside, § 87(2)(b) was placed against a fence near a school and frisked. § 87(2)(b) yelled out that her phone was on the bus. PO Tiernan told § 87(2)(b) that he had her phone. § 87(2)(b) wept loudly and repeatedly asked why she was being arrested and yelled that she did not do anything, “I think I got my fucking teeth knocked out, man. How are you going to do this, I’m a female.” An officer told § 87(2)(b) “Shut the fuck up. How are we supposed to tell you’re a girl, fuck face? Next time put a fucking skirt on.” § 87(2)(b) asked what her sexuality had to do with her arrest and asked what she did to be arrested. § 87(2)(b) was placed in the unmarked Kia where she continued to yell and curse, “What the fuck do you have me in the car for? Why am I going to the Precinct?”. An officer told § 87(2)(b) “shut the fuck up you fucking animal. You want to go home, right?” Inside the vehicle, while she was being transported to the 113th Precinct stationhouse, § 87(2)(b) continued to cry and protest the arrest. All of the officers in the vehicle, including the officer who told her to put a skirt on, told § 87(2)(b) to shut the fuck up and continued to make comments about her gender, including “where are your tits?”

When she arrived at the 113th Precinct stationhouse, § 87(2)(b) was in pain and requested medical treatment. § 87(2)(b) called her mother. EMS arrived at the stationhouse and § 87(2)(b) was placed in a neck brace and transported to § 87(2)(b) accompanied by her mother.

Witness: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old white male who is 5’9” tall and 197 lbs. with salt and pepper colored hair and brown eyes. § 87(2)(b) is a driver for the MTA Bus Company.

CCRB Testimony:

§ 87(2)(b) was interviewed by the CCRB at § 87(2)(b) on April 26, 2012 (encl. C10-13). On October 12, 2011, § 87(2)(b) drove the Q40 Bus in the vicinity of Linden Boulevard and 142nd Street. An unmarked car used lights and sirens behind him. § 87(2)(b) stopped the bus at the Linden Boulevard and 142nd Street stop, next to a school, and the unmarked car stopped in front of and next to the bus. § 87(2)(b) did not open the doors at the stop and no passengers boarded or disembarked. The bus was not full. There were no passengers standing in the aisles. § 87(2)(b) had a clear view of the passenger area of the bus through the mirrors. Through the front window of the bus, an officer instructed § 87(2)(b) to open the rear doors of the bus as there was a passenger with a weapon on board. No officer specified what kind of weapon the suspect had. § 87(2)(b) opened the doors of the bus. Approximately three officers entered both the front and rear doors of the bus. § 87(2)(b) stated that the officers were in plain clothes, but could not recall any description of any officers who boarded the bus. Approximately two or three officers went to the very rear of the bus and apprehended a passenger identified by the investigation as § 87(2)(b). § 87(2)(b) heard officers instruct § 87(2)(b) to “come with us” and

"get off the bus." § 87(2)(b) did not recall any of the words used by the female individual. § 87(2)(b) looked straight ahead and did not watch the apprehension of the individual. § 87(2)(b) stated that the female individual was removed from the bus in less than a minute. § 87(2)(b) did not hear any officer curse or make any derogatory remarks about § 87(2)(b)'s gender. By the time § 87(2)(b) looked at the rear of the bus, the officers were escorting the female passenger off the bus. § 87(2)(b) stated that throughout the incident he wished to remain calm and let the incident happen and end quickly. § 87(2)(b) did not observe any injuries on § 87(2)(b). § 87(2)(b) inspected the bus after his shift was completed. § 87(2)(b) did not observe any blood, teeth, or evidence of injuries during his inspection.

Witness: § 87(2)(b)

- § 87(2)(b) is § 87(2)(b) -old black male who lives at § 87(2)(b). § 87(2)(b) is not acquainted with § 87(2)(b). § 87(2)(b) provided § 87(2)(b) telephone number to the CCRB after he identified himself to her as a witness to the incident on October 12, 2011.

Telephone Statement:

§ 87(2)(b) provided a witness statement to the CCRB over the telephone on December 21, 2011 (encl. C14). On October 12, 2011, § 87(2)(b) rode the Q40 in Queens. He boarded the bus at Rockaway Boulevard and 142nd Street. § 87(2)(b) sat in the middle of the bus, on the driver's side. Most of the seats of the bus were taken but there were no individuals standing in the bus. The bus stopped at Linden Boulevard and 142nd Street and approximately three to four officers in plain clothes boarded the bus. Officers walked through the bus, looking at the passengers. Two officers approached the rear of the bus, which has raised seating, and approached § 87(2)(b) who sat in the rear-most seats of the bus, talking on her cell phone. § 87(2)(b) did not observe § 87(2)(b) acknowledge the officers. § 87(2)(b) had a clear view of § 87(2)(b) when officers approached her. § 87(2)(b) heard § 87(2)(b) ask the officers, "What's going on?" The officers told § 87(2)(b) to "shut the fuck up" and "get on the ground." § 87(2)(b) told the officers, "I'm a girl." § 87(2)(b) did not have a physical reaction to the officers. § 87(2)(b) did not attempt to physically resist officers. The two officers who approached § 87(2)(b) grabbed § 87(2)(b) by either arm and pulled her out of her seat and put her on the floor of the bus. On her way to the floor, § 87(2)(b) observed § 87(2)(b) hit her face on one of the seats on the side of the bus. § 87(2)(b) did not observe any officer push or hit § 87(2)(b)'s head against the seat or pole and stated that § 87(2)(b) hit her face inadvertently as a result of the speed with which officers apprehended her. § 87(2)(b) was placed on the floor of the bus with her head toward the front of the bus and § 87(2)(b) had a clear view of her head and feet. § 87(2)(b) observed that § 87(2)(b)'s mouth was bleeding. § 87(2)(b) was placed in handcuffs while she lay on the floor. No officer punched § 87(2)(b) at any time. § 87(2)(b) was escorted off the bus by the officers and placed against a nearby fence. § 87(2)(b) repeatedly yelled out, "I'm a girl." The officers told § 87(2)(b) to "shut the fuck up and stop resisting." One officer asked another, "Did you find it?" To which an officer replied, "Yeah, we got it." § 87(2)(b) was not sure which officers spoke to one another. § 87(2)(b) did not hear any officer refer to § 87(2)(b)'s gender or tell her to "put a fucking skirt on." The bus drove away while § 87(2)(b) and the officers were still at the location and before § 87(2)(b) was placed in a patrol car. At some point during the interaction § 87(2)(b)

observed an additional police car arrive at the location but he could not recall whether it was an unmarked car or whether the officers who arrived in that car had any interaction with § 87(2)(b)

§ 87(2)(b)

NYPD Statements:

Subject Officer: SGT. AARON KLEIN

- *Sgt. Aaron Klein is a § 87(2)(b)-old white male who is 5'10" tall and 205 lbs. with brown hair and hazel eyes.*
- *On October 12, 2011, Sgt. Klein was working as the Anti-Crime supervisor in the confines of the 113th Precinct. Sgt. Klein was in plain clothes and worked with PO Tiernan, PO Lewis, and PO Smith from 6:40 a.m. 3:37 p.m.*

Memo Book: (encl. D1-2)

At 1:20 p.m., Sgt. Klein noted a request for an additional unit from the 113th Precinct SNEU team at 142nd Street and Rockaway Boulevard. At 1:24 p.m., Sgt. Klein noted the stop of an MTA bus at 142nd Street and Linden Boulevard for a person matching the description of a person with a gun who ended up resisting and fighting. At 1:42 p.m., Sgt. Klein noted two under arrest by PO Tiernan with one gun recovered.

CCRB Testimony:

Sgt. Klein was interviewed at the CCRB on August 15, 2012 (encl. D3-5). On October 12, 2011, Sgt. Klein received a phone call from Sgt. Bracero of the 113th Precinct Street Narcotics Enforcement Unit (SNEU) team who reported that officers from the SNEU team were chasing two individuals with a firearm. Sgt. Klein and the Anti-Crime team were driving on Rockaway Boulevard near Baisley Boulevard. Sgt. Bracero called Sgt. Klein on a cell phone from the vicinity of Rockaway Boulevard and 142nd Street. There were no radio communications regarding the incident because Sgt. Klein and Sgt. Bracero communicated over the telephone. Sgt. Bracero reported that he observed two individuals, identified by the investigation as § 87(2)(b) and § 87(2)(b) both of whom he believed had a firearm. § 87(2)(b) fled on foot and the SNEU team chased him in the vicinity of 142nd Street and Rockaway Boulevard. Sgt. Bracero then followed the bus that § 87(2)(b) boarded and called Sgt. Klein. Sgt. Bracero described § 87(2)(b) as a black male wearing a baseball cap, a blue hooded sweatshirt and jeans.

Sgt. Klein and the Anti-Crime team were approximately two blocks behind Sgt. Bracero and the bus. Sgt. Bracero provided Sgt. Klein with the number of the bus he was pursuing. Sgt. Bracero did not stop the bus because he was by himself in a vehicle without lights or sirens and the remaining members of the SNEU team were chasing § 87(2)(b). Sgt. Klein caught up with the bus on 142nd Street between Rockaway Boulevard and Linden Boulevard and stopped the bus at 142nd Street and Linden Boulevard. Sgt. Klein used lights and sirens to stop the bus and the officers had their shields displayed when they boarded the bus. Sgt. Klein and PO Lewis boarded the front entrance of the bus while PO Tiernan and PO Smith boarded the rear entrance to the bus.

Sgt. Klein observed § 87(2)(b) sitting at the rear of the bus. As soon as Sgt. Klein and the Anti-Crime Team boarded the bus, Sgt. Klein observed and heard § 87(2)(b) call out, "The person you are looking for isn't on the bus." To that point, Sgt. Klein and the Anti-Crime Team had made no statements or indicated in any way their reasons for being on the bus. When he heard § 87(2)(b) make this statement, his level of suspicion increased because she acknowledged that she was aware of the reasons officers boarded the bus before they ever announced their intentions. At the time § 87(2)(b) acknowledged the presence of the officers, she had her head bowed and her hands held underneath her sweatshirt. § 87(2)(b) was not on

the phone. Sgt. Klein could not see § 87(2)(b)'s hands because they were covered by the sweatshirt. Sgt. Klein did not observe § 87(2)(b) reach in any areas. The bus was crowded and there were passengers sitting in front of § 87(2)(b).

All members of the Anti-Crime Team instructed § 87(2)(b) to show her hands multiple times and she did not comply. This verbal interaction continued for approximately one minute. PO Lewis approached § 87(2)(b) and took hold of her arm. § 87(2)(b) immediately reacted by throwing punches. All of the members of the Anti-Crime Team then assisted by taking hold of § 87(2)(b). § 87(2)(b) continued to resist by punching with her arms and kicking with her legs. Some of § 87(2)(b)'s punches and kicks made contact with officers, but they were minor blows. The officers and § 87(2)(b) then went to the floor of the bus. Sgt. Klein was not aware of the specific orientation in which § 87(2)(b) went to the ground. Sgt. Klein did not observe § 87(2)(b) hit her face anywhere on the bus. Throughout the struggle with § 87(2)(b) the officers instructed her repeatedly to stop resisting. No officer punched § 87(2)(b). No officer grabbed § 87(2)(b)'s head and hit it against the ground. Sgt. Klein did not hear § 87(2)(b) complain of injuries. Sgt. Klein did not hear any officer tell § 87(2)(b) to "shut the fuck up," or call her a "fucking animal." After § 87(2)(b) was brought to the floor of the bus she was handcuffed and she told officers that she was a female. It was not until § 87(2)(b) informed officers that she was a female that Sgt. Klein realized she was female. No officer made any comments about § 87(2)(b)'s gender. After § 87(2)(b) was handcuffed, § 87(2)(b) was removed from the bus and frisked in order to ensure that she was not armed.

In order to avoid anyone realizing his vehicle was a police vehicle, Sgt. Bracero parked some distance away from 142nd Street and Linden Boulevard and walked to the location where the bus was stopped. Sgt. Bracero was not involved in apprehending § 87(2)(b). Sgt. Bracero observed § 87(2)(b) and confirmed that she was the individual who he observed enter the bus. § 87(2)(b) was not searched in the field as there was no female officer at the location to search. § 87(2)(b) was then placed in Sgt. Klein's vehicle and transported to the 113th Precinct stationhouse. From the 113th Precinct stationhouse, § 87(2)(b) was transported by ambulance to § 87(2)(b) to treat an injury to her mouth. After § 87(2)(b) was returned to the 113th Precinct stationhouse, Sgt. Klein stated that § 87(2)(b)'s mother appeared at the stationhouse and informed him that § 87(2)(b) had a psychological disorder for which she required medication. § 87(2)(b)'s mother informed her that § 87(2)(b) had not taken her medication in approximately two weeks. PO Tiernan, who transported § 87(2)(b) to the hospital, informed Sgt. Klein that § 87(2)(b) was apologetic about the incident § 87(2)(b).

Subject Officer: PO MATTHEW TIERNAN

- *PO Matthew Tiernan is a § 87(2)(b)-old white male who is 5'11" tall and 250 lbs. with brown hair and hazel eyes.*
- *On October 12, 2011, PO Tiernan was assigned to Anti-Crime in the confines of the 113th Precinct with PO Lewis, PO Smith, and Sgt. Klein. PO Tiernan was in plain clothes and worked from 8:00 a.m. to 4:35 p.m.*

Memo Book: (encl. D6-8)

At 1:15 p.m., PO Tiernan noted one person stopped with regard to a firearm on the Q40 bus at 142nd Street and Linden Boulevard. § 87(2)(b) was arrested. PO Weldon made a late entry regarding the arrest of § 87(2)(b) for a firearm at 143-10 Rockaway Boulevard by PO Weldon, PO Frank, and PO Perullo. At 5:00 p.m., PO Tiernan noted that § 87(2)(b) fought back with regard to the stop and was charged with § 87(2)(a) 160.50 § 87(2)(b) was irate, hostile, and off her medication. Arrest No. § 87(2)(a) 160.50

Arrest Report No. § 87(2)(b) (OLBS): (encl. D9-11)

§ 87(2)(a) 160.50

§ 87(2)(b) was described as a § 87(2)(b)-old black female who was 5'5" tall and 105 lbs. with short, black hair and brown eyes, who wore a blue sweatshirt, black baseball cap, blue jeans, and white sneakers.

Stop, Question, and Frisk Report (UF-250): (encl. D12)

§ 87(2)(b) was stopped on October 12, 2011 at 1:15 p.m. at the corner of 142nd Street and Linden Boulevard. § 87(2)(b) was suspected of criminal possession of a weapon because she fit a description and because of furtive movements. The officers placed their hands on § 87(2)(b) and placed § 87(2)(b) on the ground because she attempted to flee. § 87(2)(b) was arrested for § 87(2)(a) 160.50. § 87(2)(b) was frisked due to furtive movements. § 87(2)(b) was not searched. No weapon or contraband was found. § 87(2)(b)'s demeanor is described as hostile and angry. § 87(2)(b) told the officers "It's not me." Additional circumstances leading to the stop were a high incidence of reported offense of the type under investigation in the area and § 87(2)(b)'s proximity to the location of a crime.

Criminal Complaint No. § 87(2)(b) (UF-61): (encl. D13-14)

§ 87(2)(a) 160.50

Criminal Court Complaint and Supporting Deposition: (encl. D15-16)

§ 87(2)(a) 160.50

CCRB Testimony:

PO Tiernan was interviewed at the CCRB on July 5, 2012 (encl. D17-19). § 87(2)(g)

On October 12, 2011, at 1:10 p.m., PO Tiernan, PO Lewis, PO Smith, and Sgt. Klein stopped the bus using lights and sirens in the vicinity of a bus stop at Linden Boulevard and 142nd Street. PO Tiernan and PO Smith entered the rear exit of the bus and PO Lewis and Sgt. Klein entered the front of the bus. PO Tiernan had his shield displayed. As soon as PO Tiernan, PO Lewis, PO Smith, and Sgt. Klein boarded the bus, PO Tiernan heard an individual say, “The person you’re looking for ain’t on here.” This indicated to PO Tiernan that, whoever said this knew that officers were on the bus for a specific reason. PO Tiernan did not know who said this at the time but when he looked toward the rear of the bus he observed § 87(2)(b) who sat in the rear-most seat of the bus on the driver’s side, and who wore a blue hooded sweatshirt and black baseball cap. PO Tiernan also observed that there were approximately 15 passengers on board the bus. Sgt. Klein and PO Lewis approached § 87(2)(b). All of the officers instructed § 87(2)(b) to show her hands. § 87(2)(b) told the officers, “No, why do I have to show you my hands?” The officers instructed § 87(2)(b) again to show her hands. § 87(2)(b) replied, “Fuck you, I’m not showing you my hands.” While she was seated, § 87(2)(b) reached with her right arm across her body toward her left hip. At the rear-most seat of the bus there is a gap of approximately two to three inches between the seat and the wall of the bus. PO Tiernan did not have a clear view of what, if anything, was concealed in the space between the seat and the wall where § 87(2)(b) was reaching. § 87(2)(b) had her body bladed and her thigh was covering the area next to the seat from view. PO Tiernan could not see what § 87(2)(b) was doing with her right hand. § 87(2)(b) was instructed to show her hands at least five to six times and each time she was instructed to show her hands she refused to comply.

PO Lewis and PO Smith grabbed § 87(2)(b)’s right arm in order to observe what, if anything, § 87(2)(b) was reaching for. § 87(2)(b) swung with her left arm approximately five to ten times, attempting to punch at PO Lewis and PO Smith. § 87(2)(b) then kicked with her legs in an attempt to escape. PO Tiernan grabbed § 87(2)(b)’s legs. PO Lewis, PO Smith, PO Tiernan and § 87(2)(b) went to the ground and § 87(2)(b) went to the ground face down. PO Tiernan observed § 87(2)(b) hit her face on the floor of the bus when they all went to the ground. PO Lewis, PO Smith, and PO Tiernan gained control of § 87(2)(b) and removed her from the bus. PO Tiernan did not punch § 87(2)(b) and did not observe any officer punch § 87(2)(b). No officer grabbed § 87(2)(b) by the back of the head and push it into the ground. No officer held § 87(2)(b)’s head to the ground to restrain her.

§ 87(2)(b) was placed against a fence outside of the bus. PO Tiernan observed that § 87(2)(b) was bleeding from the mouth. After § 87(2)(b) was removed from the bus, she told officers, “Look what you did to my face.” After she was placed against the fence, § 87(2)(b) yelled, “I’m a female.” No officer mentioned § 87(2)(b)’s gender or made any reference to her gender at any time during the incident. No officer cursed at § 87(2)(b) during the incident. PO Tiernan, PO Lewis, and PO Smith transported § 87(2)(b) to the 113th Precinct stationhouse. Sgt. Klein remained at the location where § 87(2)(b) was apprehended.

§ 87(2)(b)’s mother arrived at the stationhouse and spoke to PO Tiernan. § 87(2)(b) mother informed PO Tiernan that § 87(2)(b) was off her medication. § 87(2)(b) was transported to a hospital where she was treated and then returned to the stationhouse. PO Tiernan fingerprinted her. PO Tiernan spoke to the ADA, who informed him that § 87(2)(b) would not be prosecuted for the gun possession. PO Tiernan stated that he wished to charge her with § 87(2)(b)

§ 87(2)(b) The ADA informed PO Tiernan that § 87(2)(b) would not be charged.

Subject Officer: PO MATTHEW LEWIS

- *PO Matthew Lewis is a § 87(2)(b) -old white male who is 5'10" tall and 220 lbs. with brown hair and brown eyes.*
- *On October 12, 2011, PO Lewis was working Anti-Crime in the confines of the 113th Precinct with PO Tiernan, PO Smith, and Sgt. Klein. PO Lewis was in plainclothes and worked from 10:00 a.m. to 6:00 p.m.*

Memo Book:

PO Lewis lost his memo book during an incident on October 28, 2011, generating UF-61 No. 2011-113-09272.

Criminal Complaint No. 2011-113-09272 (UF-61): (encl. D20-21)

On October 28, 2011, at 10:30 a.m., PO Lewis responded to a burglary at § 87(2)(b) and engaged in a foot pursuit. During the foot pursuit, PO Lewis dropped his memo book, No. A877240, but did not discover the loss until he returned to the stationhouse. PO Lewis and other officers returned to the location in order to locate the memo book but were unsuccessful.

CCRB Testimony:

PO Lewis was interviewed at the CCRB on July 5, 2012 (encl. D22-23). § 87(2)(g)

On October 12, 2011, at 1:10 p.m., PO Lewis, PO Tiernan, PO Smith, and Sgt. Klein stopped the bus using lights, sirens, and the rumbler. PO Lewis, PO Tiernan, PO Smith, and Sgt. Klein all boarded the front entrance of the bus with their shields displayed. As soon as he entered the bus, PO Lewis heard § 87(2)(b) who wore a blue hooded sweatshirt, who was seated at the rearmost seat of the bus on the driver's side say, "The person you're looking for ain't on here." This raised PO Lewis' level of suspicion because § 87(2)(b) indicated that she was aware that officers were seeking someone matching her description as soon as they boarded the bus. Together PO Lewis, PO Tiernan, PO Smith, and Sgt. Klein looked at the rear of the bus and observed § 87(2)(b) slouched in the rear-most seat of the bus wearing a blue hooded sweatshirt and approached her. All of the officers instructed § 87(2)(b) to show her hands. § 87(2)(b)'s hands were not visible. PO Lewis could not specify where § 87(2)(b)'s hands were. PO Lewis could not recall exactly what § 87(2)(b) was doing with her hands to make him unable to see her hands but he recalled that he could not see her hands. § 87(2)(b) was instructed to show her hands several times and each time § 87(2)(b) refused to show her hands and cursed at officers. PO Lewis did not recall exactly what § 87(2)(b) told the officers.

PO Lewis grabbed § 87(2)(b) by the shoulders in order to stand her up. PO Lewis instructed § 87(2)(b) to place her hands behind her back. § 87(2)(b) punched at officers but did not land any punches. All of the officers struggled to restrain § 87(2)(b) and she went to the ground during the struggle. PO Lewis could not recall exactly how § 87(2)(b) went to the ground. PO Lewis could not recall whether any officer landed on top of § 87(2)(b) or went to the ground with § 87(2)(b). No officer punched § 87(2)(b). No officer pushed § 87(2)(b)'s face into the ground on the bus. No officers hit her face into the ground on the bus. At some point during the incident, § 87(2)(b) hit her mouth, cut her lip, and injured her tooth. No officer mentioned § 87(2)(b)'s gender. No officer cursed at § 87(2)(b) or told her "Next time put a fucking skirt on."

§ 87(2)(b) was transported to the 113th Precinct stationhouse where she was processed. § 87(2)(b)'s mother appeared at the stationhouse. § 87(2)(b) was transported to a hospital and treated for her injuries and given a psych evaluation. PO Lews did not process § 87(2)(b)

Subject Officer: PO JEFFREY SMITH

- *PO Jeffrey Smith is a § 87(2)(b)-old white male who is 5'11" tall and 250 lbs. with brown hair and hazel eyes.*
- *On October 12, 2011, PO Smith was working Anti-Crime in the confines of the 113th Precinct with Sgt. Klein, PO Tiernan, and PO Lewis. PO Smith was in plain clothes and worked a tour from 8:00 a.m. to 4:35 p.m.*

Memo Book: (encl. D24-26)

At 1:15 p.m. PO Smith noted two under arrest by PO Tiernan at 142nd Street and Linden Boulevard, an individual fit the description of a gun run, she was holding a bulge at her waist and fought as she was frisked.

CCRB Testimony:

PO Smith was interviewed at the CCRB on August 15, 2012 (encl. D27-29) § 87(2)(g)

On October 12, 2011, at 1:10 p.m., the Anti-Crime team stopped a bus at 142nd Street and Linden Boulevard. PO Smith stated that all four members of the Crime Team boarded the bus with shields displayed but he could not recall through which specific doors each officer entered. PO Smith was the last officer to enter the bus. PO Smith observed § 87(2)(b) seated at the very back of the bus, on the driver's side, holding her hands low near her waistband. PO Smith did not observe any item that § 87(2)(b) was holding. PO Smith did not observe a bulge at § 87(2)(b)'s waistband. PO Smith's view was obscured by members of the Anti-Crime team who boarded the bus before he did.

PO Tiernan and PO Lewis approached § 87(2)(b). PO Smith could not recall any specific instructions given to § 87(2)(b) by PO Tiernan and PO Lewis, but he stated that he "was sure she was provided with instruction." PO Smith did recall specifically that § 87(2)(b) did not comply with instructions.

PO Smith observed that officers were struggling with § 87(2)(b) but he did not have a clear view of the struggle. PO Smith did not recall whether § 87(2)(b) punched or kicked any officers during the incident. PO Tiernan and PO Lewis brought § 87(2)(b) to the floor of the bus in the aisle of the bus. PO Smith could not recall whether § 87(2)(b) hit her face during the incident but he stated that he was informed after the incident by PO Tiernan or PO Lewis that § 87(2)(b) hit her face on a bus seat when she was being brought to the ground. PO Smith did not observe any officer grab § 87(2)(b) by the back of the head and hit her face on the ground. PO Smith could not recall whether § 87(2)(b) complained of injuries, or whether § 87(2)(b) requested medical treatment. Officers commanded § 87(2)(b) to stop resisting after she was placed in handcuffs. PO Smith had no physical interaction with § 87(2)(b) throughout the incident.

PO Smith did not hear any officer tell § 87(2)(b) to "shut the fuck up." PO Smith did not recall any comments regarding § 87(2)(b)'s gender. PO Smith did not recall whether § 87(2)(b) made any mention of the fact that she was a female. PO Smith did not curse during the incident, and did not hear any other officer speak discourteously. PO Smith did not hear any officer call § 87(2)(b) a "fucking animal." PO Smith could not recall whether any additional officers responded to the location.

Subject Officer: SGT. ROBERT BRACERO

- *Sgt. Robert Bracero is a § 87(2)(b) -old Hispanic male who is 6'0" tall and 207 lbs. with brown hair and brown eyes.*
- *On October 12, 2011, Sgt. Bracero was working as the Assistant Special Operations Lieutenant in the confines of the 113th Precinct. Sgt. Bracero was in plain clothes and was assigned to a non-descript, unmarked car without lights, sirens, or any official markings. Sgt. Bracero did not have a partner and worked from 9:15 a.m. to 6:12 p.m.*

Memo Book: (encl.D30-31)

Sgt. Bracero had no memo book entries regarding the incident.

CCRB Testimony:

Sgt. Bracero was interviewed by the CCRB on October 17, 2012 (encl. D32-34). On October 12, 2011, at approximately 1:40 p.m., Sgt. Bracero was working limited duty § 87(2)(b)

§ 87(2)(b) Sgt. Bracero was assigned to check Argus cameras, a closed-circuit NYPD surveillance system. While Sgt. Bracero was en-route to an Argus camera location in the 113th Precinct, he drove on § 87(2)(b) when he observed a group of approximately five individuals congregating in front of a house at § 87(2)(b)

§ 87(2)(b) Sgt. Bracero did not know the exact address of the house at § 87(2)(b) Boulevard § 87(2)(e)

§ 87(2)(b) Sgt. Bracero parked his vehicle and conducted observations of the individuals outside of 143rd Street and Rockaway Boulevard.

§ 87(2)(e)

There were approximately three black and two Hispanic individuals in the group of individuals who stood outside of the house at § 87(2)(b). Sgt. Bracero could only provide a description of two of these individuals, one who wore a grey sweatshirt and one black individual who wore a blue hooded sweatshirt with the hood up over his or her head and blue jeans with a thin, lanky build,. At the time of the incident, Sgt. Bracero did not know whether the individual wearing the blue hooded sweatshirt was male or female. Sgt. Bracero stated that the individual who wore the blue hooded sweatshirt stood out to him because he or she was the only individual among the group who wore a blue hooded sweatshirt.

Approximately four of the five individuals in the group who were outside of the house at § 87(2)(b) entered the house at § 87(2)(b). Sgt. Bracero could not recall which of the individuals entered the house and could not recall whether the individual in the grey sweatshirt or the individual in the blue hooded sweatshirt was among the individuals who entered the house. The group of individuals was inside the house for approximately three minutes, after which the individuals who entered the house exited and joined the individuals who waited outside the house. The entire group then walked away, crossed 143rd Street and stopped between 143rd Street and 142nd Street on Rockaway Boulevard. At this point, Sgt. Bracero suspected one or all of the individuals of possession of a firearm because one of the individuals entered the house at § 87(2)(b). Sgt. Bracero observed the

individuals across six lanes of traffic and one building length away. Sgt. Bracero did not observe any of the individuals make any furtive movements while they walked away from the house at § 87(2)(b). Sgt. Bracero did not observe any of the individuals in possession of a firearm, and did not observe any additional indications of criminality while they walked away from the location. Sgt. Bracero used his cell phone to call a SNEU team operating in the 113th Precinct and requested that they respond to the location and conduct a stop of the individuals because he suspected that one or all of them were in possession of a firearm.

When the individuals stopped walking between 143rd Street and 142nd Street on Rockaway Boulevard, they huddled together in a group and examined an object. Sgt. Bracero did not know what the object was. While they examined the object, each individual in the group raised and swiveled his head, looking in all directions and returned his attention on the object. This behavior continued for approximately one minute. The SNEU team car arrived in the vicinity of the group of individuals while they were examining the unidentified object. As soon as members of the SNEU team exited their patrol car, the group of individuals broke up and ran in two directions. Sgt. Bracero observed individuals in the group look at the SNEU team as they exited their vehicles and then observed them flee immediately after they looked at the SNEU team. Sgt. Bracero did not know whether the members of the SNEU team had their shields displayed or announced themselves as officers to the individuals who fled. Sgt. Bracero was not aware of what observations were made by members of the SNEU team when they approached the individuals. The undersigned investigator informed Sgt. Bracero of the Criminal Court Complaint regarding the arrest of § 87(2)(b) in which PO Weldon testified that he observed the butt of a firearm in § 87(2)(b) pocket. Sgt. Bracero could not confirm this information, did not observe the firearm, and was not aware of what, if anything, members of the SNEU team observed. Approximately two to three individuals from the group fled on foot southbound on 143rd Street, away from Rockaway Boulevard. The SNEU team chased these individuals. The remaining members of the group, including the individual wearing the blue hooded sweatshirt, fled westbound on Rockaway Boulevard toward 142nd Street, crossed Rockaway Boulevard from the south side of the street to the north side of the street and mingled among a crowd of people waiting at a bus stop. Sgt. Bracero continued watching the individual wearing the blue hooded sweatshirt due to the fact that this individual wore a distinctive blue hooded sweatshirt that no other individuals in the crowd or passing by wore. A bus arrived at the stop and the crowd, including the individual wearing the blue hooded sweatshirt, boarded the bus.

Sgt. Bracero followed the bus along its route in his vehicle and maintained eye contact with the bus. Sgt. Bracero did not observe any individuals leave the bus while he followed the bus. Sgt. Bracero called Sgt. Klein of the 113th Precinct Anti-Crime team using his cell phone because the SNEU team was occupied by the pursuit of the additional individuals who fled from § 87(2)(b). Sgt. Bracero informed Sgt. Klein that individuals who exited “§ 87(2)(b)” or “The Gun House” were aboard a bus he was following. Sgt. Bracero did not specifically mention a firearm to Sgt. Klein at any point. However, Sgt. Bracero stated that providing the specific location from which the individuals exited would indicate to Sgt. Klein that he suspected the individuals of possession of a firearm. Sgt. Bracero provided a description of an individual who was wearing a blue hooded sweatshirt and jeans with a thin build. Sgt. Klein recognized the bus that Sgt. Bracero was following by recognizing the nondescript car that Sgt. Bracero drove and stopped the bus on 142nd Street. When Sgt. Klein initiated the stop of the bus, Sgt. Bracero turned off of 142nd Street in order to conceal his identity and the identity of the vehicle he drove.

Sgt. Bracero did not observe the apprehension of § 87(2)(b) and did not hear any of the interaction between § 87(2)(b) and officers at the location.

Witness Officer: PO JOSEPH WELDON

- *PO Joseph Weldon is a § 87(2)(b) -old white male who is 6'0" tall and 210 lbs. with brown hair and brown eyes.*
- *On October 12, 2012, PO Weldon was working SNEU enforcement in the confines of the 113th Precinct. PO Weldon was in plain clothes and assigned to an unmarked car with PO Perullo and PO Frank from 9:30 a.m. to 6:00 p.m.*

Memo Book: (encl. D35-37)

At 1:20 p.m., PO Weldon noted the arrest of § 87(2)(b) by PO Tiernan at the rear of § 87(2)(b), Arrest No. § 87(2)(a) 160.50

CCRB Testimony:

PO Weldon was interviewed at the CCRB on February 6, 2012 (encl. D38-39). On October 12, 2011, at approximately 1:40 p.m. PO Weldon was conducting Street Narcotics Enforcement in the confines of the 113th Precinct. PO Weldon was in the rear passenger seat of an unmarked car. PO Weldon was working with PO Michael Perullo and PO John Frank, both of the 113th Precinct. PO Weldon was communicating with Sgt. Bracero and the 113th Precinct Anti-Crime team. In the vicinity of § 87(2)(b), PO Weldon observed a group of approximately four individuals, three males and one female, all of approximately high school age, in front of a house located at § 87(2)(b). PO Weldon could not recall what any of the individuals looked like. PO Weldon could not recall whether or not any of the individuals wore a blue hooded sweatshirt. § 87(2)(e), § 87(2)(f)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Weldon, PO Perullo, and PO Frank decided to approach the individuals who were lingering outside of the house at § 87(2)(b) § 87(2)(e)

§ 87(2)(b) In addition, PO Weldon estimated that the individuals were approximately high school age and he was curious as to why they were not at school. PO Weldon did not make any calls regarding his decision to approach the individuals. PO Weldon did not receive any calls regarding the individuals. There were no factors in addition to the individuals' presence in the vicinity of the house at § 87(2)(b) that made PO Weldon decide to approach the individuals. PO Weldon did not observe any indication that any of the individuals were armed and did not observe any suspicious activity in addition to their proximity to the house at § 87(2)(b) and his belief that they were high school age and not at school. The officers did not use lights or sirens when they approached the individuals. The officers stopped the car on the street approximately seven feet away from the individuals who were on the sidewalk. As soon as they stopped their car and PO Weldon stepped out of the car, the individuals fled.

One of the individuals in the group, identified by the investigation as § 87(2)(b) held the front of his waistband when he ran away. This was the first indication that one of the individuals had a weapon. PO Weldon observed the butt of a gun at § 87(2)(b) front waistband. PO Weldon then observed the gun in the individual's hand. PO Weldon could not recall what the gun looked like or what part of the gun he observed, only that he observed the gun. PO Weldon then briefly lost sight of the individual while he chased him. At some point during the chase, the individual moved the gun from his waistband to his back pocket. PO Weldon and PO Perullo chased the individual who had the gun. PO Frank remained in the vehicle. PO Weldon did not

make any radio communications during the incident but he assumed that PO Frank made the radio communication regarding the gun because he and PO Perullo were running after the individual with the gun. PO Weldon did not recognize § 87(2)(b) in a photograph and could not recall whether or not she was a member of the group who they initially approached. PO Weldon recognized § 87(2)(b) in his arrest photo but he could not recall what § 87(2)(b) wore at the time of the incident. PO Weldon and PO Perullo apprehended § 87(2)(b) and transported him to the 113th Precinct stationhouse. PO Weldon was not informed of the manner in which § 87(2)(b) were apprehended. PO Weldon was not aware of who else was apprehended regarding the incident. PO Weldon was informed that an individual was apprehended on a bus regarding the incident but he did not know why or whether that individual was part of the group who fled from the vicinity of § 87(2)(b).

Medical Records (encl. C15-20)

§ 87(2)(b) was treated § 87(2)(b) on § 87(2)(b). § 87(2)(b) was diagnosed with tenderness to the left paraspinal area of her neck, tenderness to her left paraspinal shoulder, decreased range of movement secondary to pain. Sensation and pulses down her bilateral extremities were within normal limits. The rest of the exam was unremarkable. All X-rays were negative. The impression was shoulder pain and neck strain secondary to assault. § 87(2)(b) was treated with Maalox and Motrin pain reliever and discharged.

NYPD Document

Command Log: (encl. E6-7)

The Command Log noted the arrest of § 87(2)(b) at the corner of 142nd Street and Linden Boulevard at 1:30 p.m. for § 87(2)(a) 160.50

§ 87(2)(b) had a broken tooth. § 87(2)(b) was removed to § 87(2)(b). § 87(2)(b) was transported to Queens Central Booking at 5:50 a.m. The Command Log noted the arrest of § 87(2)(b) at the rear of § 87(2)(b) at 1:30 p.m. for § 87(2)(a) 160.50. § 87(2)(b) had an injury to his ankle. § 87(2)(b) was removed to § 87(2)(b). § 87(2)(b) was transported to Queens Central Booking at 12:05 a.m.

Other Evidence

Complaint Room Dismissal Form: (encl. F1)

§ 87(2)(a) 160.50, § 87(2)(g)

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) claiming assault and battery, false arrest, unlawful imprisonment, failure to intervene, illegal search, negligence, gross negligence, negligent screening, hiring, training, retention, and supervision, intentional infliction of emotional distress, negligent infliction of emotional distress, prima facie tort, conspiracy, violation of privacy, and violations of deprivations of the claimant's rights under the Fourth and Fourteenth Amendments of the United States

Constitution and the New York State Constitution, and seeking unspecified monetary compensation as redress. As of March 8, 2013, § 87(2)(b)'s case is still open and active (encl. F2-7).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]
 - [redacted]
[redacted]
 - [redacted]
[redacted]
[redacted]
[redacted]
 - [redacted]
[redacted]
[redacted]
[redacted]
 - [redacted]
[redacted]
[redacted]

Civilian CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A5).

Subject Officers CCRB History

- Sgt. Aaron Klein has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. A1).
- PO Matthew Tiernan has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. A2).
- PO Matthew Lewis has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. A3).
- PO Jeffrey Smith has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. A4).
- Sgt. Robert Bracero has been a member of the service for thirteen years and there are no substantiated CCRB allegations against him (encl. A4a).

Conclusion

Identification of Subject Officers

Sgt. Klein was the ranking officer during the incident and testified that § 87(2)(b) came to his attention when Sgt. Bracero provided her description to him in a telephone call. § 87(2)(g)

[redacted] § 87(2)(b) testified that all of the officers who boarded the bus used physical force against her. § 87(2)(g)

[redacted] § 87(2)(b) testified that PO Tiernan told her to shut the fuck up while she was on the bus and that all of the officers who transported her to the 113th Precinct stationhouse told her to shut the fuck up and made offensive comments to her regarding her gender. PO Tiernan testified that Sgt. Klein remained at the location of the incident while PO Tiernan, PO Lewis, and PO Smith transported § 87(2)(b) to the stationhouse. § 87(2)(g)

[redacted]

[redacted]

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: Sgt. Aaron Klein supervised the stop of § 87(2)(b)

Allegation B- Abuse of Authority: Sgt. Aaron Klein supervised the frisk of § 87(2)(b)

It is not disputed that Sgt. Klein supervised the stop and the frisk of § 87(2)(b) § 87(2)(g)

The Court in People v. Debour held that an officer may stop an individual when he has a reasonable suspicion that a person has committed, is committing, or is about to commit a felony or misdemeanor. A corollary of the right to stop an individual is the authority to frisk the individual if he reasonably suspects that he is in danger of physical injury by virtue of the individual being armed. People v. DeBour, 40 N.Y.2d 210, 223 (1976). (encl. i-xi)

Sgt. Klein testified that he stopped and boarded the Q40 bus at 142nd Street and Linden Boulevard occupied by § 87(2)(b) in order to conduct an investigation of an individual with a firearm after he was informed by Sgt. Bracero that he observed an individual suspected of carrying a firearm board the bus. When Sgt. Klein boarded the bus, § 87(2)(b) then immediately called out, “I’m not the one you are looking for.” This raised Sgt. Klein’s suspicion that § 87(2)(b) had committed a crime and was aware of the officers’ efforts to detain her. PO Tiernan and PO Lewis corroborated Sgt. Klein’s testimony that § 87(2)(b) acknowledged that officers were looking for her when they boarded the bus. In her testimony to the CCRB, § 87(2)(b) § 87(2)(b) acknowledged that she was nervous and that she matched the description of a suspect she observed fleeing in the vicinity of 142nd Street and Rockaway Boulevard. Sgt. Bracero testified that he informed Sgt. Klein that § 87(2)(b) and § 87(2)(b) exited “the gun house,” or § 87(2)(b) house.” When Sgt. Bracero referred to “the gun house” he referred to a house located at § 87(2)(b) in Queens. Sgt. Bracero testified that, when he referred to the “gun house,” Sgt. Klein would have understood this reference and concluded that the individuals mentioned by Sgt. Bracero were suspected of having illegal guns. § 87(2)(g)

§ 87(2)(g)

Allegation C- Physical Force: Sgt. Aaron Klein used physical force against § 87(2)(b)

Allegation D- Physical Force: PO Matthew Tiernan used physical force against § 87(2)(b)

Allegation E- Physical Force: PO Matthew Lewis used physical force against § 87(2)(b)

Allegation F- Physical Force: PO Jeffrey Smith used physical force against § 87(2)(b)

It is not disputed that the officers used physical force in apprehending § 87(2)(b) § 87(2)(g)

Patrol Guide Procedure 203-11 states that only that amount of force necessary to overcome resistance will be used to effect an arrest or take a mentally ill or emotionally disturbed person into custody (encl. xii-xiii).

Although § 87(2)(b) testified that she did not fight with officers, she admitted that she verbally protested when the officers attempted to detain her and tightened the muscles of her body. § 87(2)(b)'s medical records indicated that she suffered shoulder pain, neck strain, and lost a tooth during the incident. She was treated with a pain reliever and released. In his telephone statement to the CCRB, § 87(2)(b) largely corroborated the officers' statements regarding the manner in which § 87(2)(b) was apprehended and stated that he did not observe any officer punch § 87(2)(b) or hit her head against the floor. § 87(2)(b) also stated that § 87(2)(b) inadvertently hit her face on a bus seat as she was brought to the ground. § 87(2)(b) did not observe the manner in which § 87(2)(b) was apprehended. The officers involved in the apprehension of § 87(2)(b) testified that she physically resisted their attempts to apprehend her and in the struggle injured her mouth. § 87(2)(g)

Allegation G- Discourtesy: PO Mathew Tiernan spoke discourteously to § 87(2)(b)

Allegation H- Discourtesy: PO Matthew Lewis spoke discourteously to § 87(2)(b)

Allegation I- Discourtesy: PO Jeffrey Smith spoke discourteously to § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) testified that officers repeatedly told her to "shut the fuck up," called her "fuck face," and called her an "animal." § 87(2)(b) corroborated § 87(2)(b)'s allegation that an officer told her "shut the fuck up." § 87(2)(b) testified that no officer cursed at § 87(2)(b) during the incident. PO Tiernan, PO Lewis, and PO Smith each denied cursing at § 87(2)(b) or calling her an "animal." No officer interviewed heard any officer curse at § 87(2)(b) or call her an "animal." § 87(2)(g)

Allegation J- Offensive Language: PO Matthew Tiernan made comments to § 87(2)(b) based on her sex.

Allegation K- Offensive Language: PO Matthew Lewis made comments to Tyneria § 87(2)(b) based on her sex.

Allegation L- Offensive Language: PO Jeffrey Smith made comments to § 87(2)(b) based on her sex.

§ 87(2)(g)
§ 87(2)(b) testified that, immediately after she was removed from the bus, an officer told her “next time put a fucking skirt on.” While she was being transported to the 113th Precinct stationhouse, the officers, including the officer who told her to put a skirt on, continued to make comments about her gender, including comments such as, “where are your tits?” § 87(2)(g)

Neither § 87(2)(b) nor § 87(2)(b) heard any officer make comments about § 87(2)(b)'s sex. Their position on board the bus, however, would have made it difficult for them to hear the alleged comments by the officers. All officers interviewed denied that any officer made comments to § 87(2)(b) based on her sex. § 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: **4**

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date